HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1805 OF 2006.

Yasmin Mohamed Yunus Valibhoy. ..Petitioner.
Versus.
The State of Maharashtra & others. ..Respondents.

Smt. Veena Thadhani i/b Shri. Vishal Thadani for the petitioner.

Shri. A.J.Phoujdar h/f Shri. Raja Thakare for the respondent nos 4 & 5.

Shri. M.S.Mohite i/b Shri. C.K.Pendse for respondent nos. 7, 8 & 9.

Shri. Ashok Mundargi, Sr. Counsel with Smt. Sama Singh i/b M/s. Sanjay Udeshi & Co., for respondent nos. 2, 3 & 6.

CORAM: S.B.MHASE &
S.R.SATHE JJ

DATE : NOVEMBER 9, 2006.

P.C.

1. On behalf of the respondent - State of Maharashtra Shri. Arun Atmaram Naik, Police Inspector, Investigating Officer has filed an affidavit to the effect that the investigation in CR.No. 6 of 2006 registered with Santacruz police station will be carried out taking into consideration the grievances made in the petition. It has been further stated that each and every aspect of the case will be investigated and that if additional offences are found and/or additional

accused are prima facie found to be involved in the offences, appropriate steps to add the offence/s and/or accused will be taken by the investigating officer. He has further made a statement that even if any submissions are made during the investigation by the petitioner that area will be also looked into. So far as Non-cognizable complaint is concerned, he stated that after taking appropriate permission from the Magistrate the cases will be investigated. In view of this affidavit, learned counsel for the petitioner is satisfied and desires to withdraw this petition.

2. Learned counsel for the respondent nos. 6 to 9 invited our attention to the fact that the respondent nos. 6 to 9 are not named in CR.No. 6 of 2006 and they are unnecessarily impleaded in this petition, therefore, submitted that respondent nos. 6 to 9 be deleted from the present petition. Learned counsel for the petitioner - Smt. Veena Thadhani submitted that according to the petitioner the respondent nos. 6 to 9 are having involvement in the offence though in CR.No. 6 of 2006 they are not named. However, learned counsel for the petitioner submitted that at this stage, since respondent nos. 6 to 9 have not been shown as accused in CR.No. 6 of 2006 as on today, that the petitioner may be allowed to delete

their names, i.e., respondent nos. 6 to 9. However, it is further submitted that liberty may be granted in favour of the petitioner that in case on further investigation it is found that the respondent nos. 6 to 9 or any other person are involved in CR.No. 6 of 2006, the police officers shall have liberty to add their names in the said CR. Learned counsel further submitted that inspite of involvement of respondent nos. 6 to 9 or any other persons being eloquently clear on record if they are not added as accused by police then liberty may be granted in favour of the petitioner to take appropriate steps to add them as accused in that CR. by filing appropriate proceeding or approaching this Court.

3. We have considered this matter from all angles. We find that as on today there is no offence registered against respondent nos. 6 to 9. However, investigating officer has already filed an affidavit referred to above stating that he will carry out further investigation looking into the grievances of the petitioner and considering the areas as pointed out by the petitioner. Under these circumstances, it is possible that on investigation it may be necessary to add more offences and/or more accused persons. We hope that the police officers will add the offences and/or accused, if found necessary. However, it is equally

possible that the police officers may fail to add offences and/or accused. Therefore, we pass the following order.

O R D E R.

1) We accept the affidavit given by the Investigating Officer and Investigating Officer shall carry out the investigation as promised in the said affidavit to this Court.

2) The petitioner is allowed to delete the names of respondent nos. 6 to 9 from this petition. However, we grant liberty to police officers to add the offences and/or names of the additional accused including respondent nos. 6 to 9, if they are found to have been involved in the offence as being investigated in Cr.No. 6 of 2006.

3) We further grant leave and liberty in favour of the petitioner that if the police officers after investigation and in spite of the material on record showing the involvement of respondent nos. 6 to 9

and/or any other persons fail to implead them as accused and/or fail to include additional offences then the petitioner may take appropriate steps before the appropriate forum including the liberty to approach to this Court.

4) In view of the affidavit filed by the Investigating Officer the petition is allowed to be withdrawn and stands disposed of.

(S.R.SATHE,J.) **(S.B.MHASE, J.)**

:srp/2006/sathe/...